

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAY LEGG,

Defendant.

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96-CR-30087-WDS

MEMORANDUM & ORDER

STIEHL, District Judge:

Before the Court is defendant's motion to for an order to reopen his case under a writ of audita querela pursuant to 28 U.S.C. § 1651 (Doc. 630) which he has filed in his criminal case.

As the Seventh Circuit noted in *Vitrano v. United States*, 643 F.3d 229, 233 (7th Cir. 2011):

Any motion filed in the district court that imposed sentence, and substantively within the scope of § 2255, is a motion under § 2255, no matter what title the prisoner plasters on the cover. Call it a motion for a new trial, arrest of judgment, mandamus, prohibition, coram nobis, coram vobis, audita querela, certiorari, capias, habeas corpus, ejectment, quare impedit, bill of review, writ of error, or an application for a Get-Out-of-Jail Card; the name makes no difference. It is substance that controls.

In this case, the defendant previously filed a motion for habeas relief, *see, Legg v. United States*, 00-CV-163-WDS which was dismissed in 2001. He cannot now file a “motion to reopen” in his criminal case. He has not sought, nor received leave of the Seventh Circuit to file a second or successive habeas petition, and this Court therefore cannot consider his motion to reopen and it is **DENIED**.

IT IS SO ORDERED.

DATE: 4 April, 2012

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE